

Message Text

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ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 PM-04 NSC-05 SP-02 SS-15
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NRC-05 FEAE-00 DODE-00 ERDA-05 AS-01 /094 R

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TO AMEMBASSY MADRID PRIORITY

C O N F I D E N T I A L STATE 086369

E.O. 11652: GDS

TAGS: TECH, ENRG, SP

SUBJECT: U.S.-SPANISH NUCLEAR COOPERATION

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REF: (A) MADRID 2020 (B) STATE 46547 (C) MADRID 2838

1. INSTRUCTIONS ON SPANISH NO-PNE NOTE (REF C) ARE BEING SENT BY SEPTTEL.
2. WE APPRECIATE EMBASSY'S EFFORTS TO ARRIVE AT MUTUALLY CONFIDENTIAL

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ACCEPTABLE LANGUAGE FOR SPANISH ASSURANCE ON NON-U.S. ORIGIN FUEL AND BELIEVE THAT, WITH RELATIVELY MINOR CHANGES, WE CAN ACCEPT SPANISH SUGGESTIONS (REF A).

3. WE HAVE NO PROBLEM WITH INTENT OF PENULTIMATE SENTENCE IN PROPOSED SPANISH NOTE (PARA 5, REF A), BUT DO NOT BELIEVE WE CAN UNDERTAKE TO PROVIDE "PRECISE GUARAN-

TEES" IN ADVANCE OF NEGOTIATIONS. MOREOVER, LANGUAGE OF SENTENCE, WHICH SPANIARDS SAY IS BASED ON NPT, APPEARS TO HAVE BECOME SLIGHTLY DISTORTED, PRESUMABLY AS A RESULT OF RETRANSLATION INTO ENGLISH. THEREFORE, WE PROPOSE SUBSTITUTING FOLLOWING SENTENCE: "PROVISIONS OF A NEW OR AMENDED AGREEMENT WILL BE DESIGNED TO AVOID HAMPERING THE

ECONOMIC OR TECHNOLOGICAL DEVELOPMENT OF THE PARTIES OR INTERNATIONAL COOPERATION IN THE FIELD OF NUCLEAR ENERGY, INCLUDING THE INTERNATIONAL EXCHANGE OF NUCLEAR MATERIAL AND EQUIPMENT."

4. WE HAVE CAREFULLY CONSIDERED LANGUAGE PROPOSED BY GOS IN FINAL SENTENCE OF DRAFT NOTE (REF A), AND WE RECOGNIZE SPANISH CONCERNS ABOUT PROVIDING AN OPEN-ENDED ASSURANCE PRIOR TO COMMENCING NEGOTIATIONS ON A REVISED AGREEMENT FOR COOPERATION. THEREFORE, WE ARE PREPARED TO ACCEPT A TERMINATION CLAUSE AND PROPOSE FOLLOWING MODIFIED LANGUAGE: QUOTE. ONCE NEGOTIATIONS START, AND IF AFTER A REASONABLE PERIOD OF TIME EITHER PARTY SEES NO POSSIBILITY OF REACHING AGREEMENT, THAT PARTY, FOLLOWING CONSULTATION WITH THE OTHER PARTY, MAY TERMINATE THE VALIDITY OF THIS NOTE. END QUOTE.

5. ACCEPTANCE OF THE TERMINATION CLAUSE, HOWEVER, MAKES IT ESSENTIAL TO ADD AFTER THE PHRASE IN THE SECOND SENTENCE OF THE NOTE WHICH READS "REPROCESSING, OR ALTERATION IN FORM OR CONTENT OF ANY NUCLEAR FUEL" THE WORDS "NOT SUBJECT TO ARTICLE 8 PARAGRAPH C OF THE AGREE-
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MENT FOR COOPERATION BETWEEN OUR TWO GOVERNMENTS CONCERNING THE CIVIL USES OF ATOMIC ENERGY." WITHOUT THIS LANGUAGE THE TERMINATION CLAUSE COULD CONCEIVABLY APPLY TO U.S.-ORIGIN FUEL AS WELL AS NON-U.S. ORIGIN FUEL.

6. ASSURANCES ON NON-U.S. ORIGIN FUEL WILL BE A SUBJECT FOR NEGOTIATION DURING DISCUSSIONS OF A REVISED AGREEMENT FOR COOPERATION, AND OUR WILLINGNESS TO ACCOMMODATE THE GOS DURING THE INTERIM PERIOD SHOULD NOT BE CONSTRUED AS PREJUDICING OUR POSITION ON THIS OR OTHER POINTS IN THE NEGOTIATIONS.
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